

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

3 UNITED STATES OF AMERICA, }
4 Plaintiff,
5 -vs- }
6 ABRAHAM BROWN, KENNETH TAYLOR,
7 ALFRED WASHINGTON and
8 CHRISTOPHER DAVIS, } Case No. 12 CR 632
9 Defendants.
10 -----
11 UNITED STATES OF AMERICA, } Chicago, Illinois
12 Plaintiff, March 25, 2015
13 -vs- } 10:44 a.m.
14 ANTONIO WILLIAMS and JOHN T.
15 HUMMONS, } Case No. 12 CR 887
16 Defendants.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE CHIEF JUDGE RUBEN CASTILLO

APPEARANCES:

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1 (Proceedings heard in open court:)

2 THE CLERK: 12 CR 632, United States versus Abraham
3 Brown, Kenneth Taylor, Alfred Washington and Christopher
4 Davis, and 12 CR 887, United States versus Antonio Williams
5 and John Hummons.

10:44:34

6 MS. BEST: Good morning, Your Honor.

7 THE COURT: Good morning.

8 MS. BEST: Yasmin Best on behalf of the United
9 States.

10:44:39

10 MR. FLUHR: Good morning, Your Honor. Philip Fluhr
11 on behalf of the United States.

12 MS. MILLER: And good morning, Your Honor. Judith
13 Miller and Alison Siegler from the Federal Criminal Justice
14 Clinic --

15 THE COURT: Okay. Thank you.

16 MS. MILLER: -- on behalf of Mr. Hummons and
17 Mr. Washington.

18 MS. SIEGLER: Good morning, Your Honor.

10:44:51

19 MR. SALTZMAN: Good morning, Judge. Steven Saltzman
20 on behalf of Mr. Hummons who's present in court. And I'm also
21 standing in for Mr. Flynn regarding Mr. Williams.

22 THE COURT: Okay.

23 MS. JACKSON: Good morning, Judge. Candace Jackson,
24 Federal Defender Program, for Abraham Brown who is present.

10:45:03

25 MR. GUTIERREZ: Good morning, Your Honor. Gerardo

1 Gutierrez on behalf of Christopher Davis.

2 MR. SHOBAT: And good morning, Your Honor. Steven
3 Shobat on behalf of Alfred Washington who is also present in
4 court, Judge.

10:45:14 5 THE COURT: Okay. Have everybody? I think we're
6 missing Mr. Williams?

7 MS. BEST: I don't think we have anyone standing in
8 for Mr. Taylor.

9 MR. SALTZMAN: I can do that, Judge.

10:45:22 10 THE COURT: Thank you, Mr. Saltzman.

11 And I understand Mr. Williams isn't here, but I
12 really don't have an explanation other than to say he is not
13 here and somehow decided not to come or was not brought over,
14 but I'm going to proceed to rule on the pending motion that's
15 now fully briefed, which is styled as The Defendants' Motion
16 For Statistics Relating to Discovery Regarding Defendants In
17 Phony Stash House Cases.

18 Defendants are seeking broad discovery with regard to
19 nine principal areas, and I'm going to discuss each one of
10:46:06 20 these nine principal areas in making the ruling. The bottom
21 line is I will allow certain discovery and not allow other
22 discovery, so the motion is going to be partially granted,
23 partially denied for reasons stated in open court.

24 The principal reason for a denial is I'm very mindful
10:46:27 25 of the fact that the discovery being sought is relevant to a

1 potential motion that will be filed by the defendants in this
2 case regarding selective prosecution and a violation of the
3 Constitution in bringing the charges against each of the
4 defendants.

10:46:50 5 At the same time, I have to be mindful of the
6 intrusiveness the potential discovery can have on the
7 Executive Branch's discretion to bring charges and investigate
8 potential cases, as well as keep in mind the privacy interests
9 of other individuals who are not before this Court.

10:47:25 10 In balancing all of these interests, I firmly believe
11 that the fact that the Court has issued the rulings it
12 previously has does not just establish a wide-open territory
13 for the defendants to seek information.

14 I'm also mindful of the fact that there might be
15 other methods to obtain information sought in this case, and
16 I'm going to give you a for example. A for example of that
17 was widely reported in the *Chicago Tribune* on Monday morning
18 when the ACLU released a report on individuals who were being
19 stopped in the Chicago metropolitan area. They were able to
10:48:19 20 do that without accessing information from the Executive
21 Branch but just by mining publicly available information.

22 So with that in mind, I'm going to start with the
23 first category of information being sought, which is in the
24 category of rap sheets for each of the 97 defendants
10:48:45 25 prosecuted in this district since 2006.

1 Balancing all the interests here, I will order the
2 government to release the rap sheets for the initial targets
3 of the investigations of the defendants who were charged in
4 this case, not the 97 defendants who were being prosecuted. I
10:49:13 I understand that's a subtle distinction, but I think it is the
5 initial targeting and decisions related to that that are the
6 most relevant for this Court.

8 The second category of information being sought here
9 are reports of investigation for each stash house case brought
10 since 2006. I don't find that that is unduly burdensome. I
11 think that is very relevant. That's a total of 25 cases by
12 the Court's count, and so I will order that that information
13 be disclosed to the defendants.

14 The third category of information is under the
15 category of detailed location information, and what the Court
16 will do -- again, balancing the interests that are involved
17 here -- is I will order the government to produce information
18 that shows the Chicago police district where the initial
19 discussion occurred between the target of the investigation
10:50:04 and the confidential informant involved in each case.

21 For those non-Chicago cases, the same information can
22 be produced by way of the municipality involved in the
23 investigation. That is the municipality where an initial
24 discussion occurred between the target and the CI involved in
10:51:02 each case.

1 The fourth category of information being sought by
2 the defense has to do with personal identifying information.
3 Defendants are seeking the state ID number, IR number, date of
4 birth and Social Security for each of the 97 defendants. I
10:51:21 believe that this is too broad of a request and will deny that
5 request.
6

7 The fifth category of information being sought is the
8 same type of information for those individuals that were
9 "non-prosecuted individuals," and I will deny that request as
10:51:47 way too broad.

11 The sixth category of information being sought by the
12 defendants involves information for what are called pre-2006
13 cases. I'm going to deny that request as too broad. I think
14 sticking initially to this time period of 2006 to the present
10:52:11 is the correct manner to proceed.

16 The seventh category of information being sought is
17 "any additional policies, practices, memorandums, e-mails or
18 other documents not previously disclosed revealing or
19 discussing the selection criteria for the stings."

10:52:34 20 I believe I have previously ordered disclosure of all
21 relevant information. I don't know where the defense is going
22 with this request, but I find it too broad and will deny that
23 seventh category of information being sought.

24 The eighth category I'm labeling ATF manuals from
10:53:04 25 before 2006 addressing stash house stings. Again, I don't see

1 a probative value for pre-2006 events and documents. They're
2 too remote to the events of this case. I'm going to deny that
3 request.

4 Finally, the ninth category seeks ATF
10:53:25 5 nondiscrimination materials. I will certainly grant that
6 request and order that the government produce to the
7 defendants policies that were in place as of 2006 or later
8 that show nondiscrimination.

9 That is the Court's ruling. I'm going to order
10 compliance with this ruling within 21 days. I think that is a
11 reasonable amount of time for the requests that I've granted
12 versus the requests that I've denied, and I think we need to
13 set up a status about -- on Day 24 from today's date.

14 So if you could give me that date, Mrs. O'Shea. And
10:54:18 15 you might as well put into the record the 21st day would take
16 us to what day?

17 THE CLERK: The 21st date is April 15th, which is a
18 Wednesday. Do you want to go to the following Wednesday?

19 THE COURT: Let's go to the following Wednesday.

10:54:29 20 THE CLERK: April 22nd, 9:30.

21 THE COURT: April 22nd at 9:30. We will hold a
22 status hearing on that date.

23 MR. FLUHR: Your Honor, the government would ask that
24 time be excluded between today and --

10:54:42 25 THE COURT: Time will be excluded, given the nature

1 of the Court's ruling and the motion practice that is
2 occurring.

3 MR. FLUHR: Thank you, Your Honor.

4 THE COURT: Thank you.

5 MS. BEST: Thank you, Your Honor.

6 MS. SIEGLER: Thank you, Your Honor.

7 MS. MILLER: Thank you, Your Honor.

8 (Which were all the proceedings heard.)

9 CERTIFICATE

10 I certify that the foregoing is a correct transcript from
11 the record of proceedings in the above-entitled matter.

12 /s/Kathleen M. Fennell May 15, 2015

13 _____
14 Kathleen M. Fennell
Official Court Reporter

15 _____ Date
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